

FAQs About IDEA 2004

Discipline

What issues may a school district consider when deciding to order a change in placement for a child with disabilities due to a violation of a school district code of conduct?

School personnel may consider any unique circumstances on a case-by-case basis when determining to remove a student with disabilities for more than 10 consecutive school days.

Has the definition of “day” regarding the 45 day removal changed?

The 45 day disciplinary removal to an interim alternative educational setting has changed from calendar days to school days.

What new special circumstance for the 45 school day removal has been added?

A school is permitted to remove a child to an interim alternative educational setting for 45 school days if a student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the school or the Office of Public Instruction.

What is “serious bodily injury”?

Serious bodily injury means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, as defined in federal statute (18 USC 1365).

Has the timeline for an expedited due process hearing changed?

The expedited hearing must take place within 20 school days of the hearing request and a determination shall be issued within 10 school days after the hearing.

In IDEA '97, a school was thought to have knowledge that a student not yet eligible for special education is a student with disabilities if he or she demonstrated behavior or performance indicating the need for special education. Did the reauthorization change this?

Yes. That language has been removed from the IDEA. The remaining conditions are unchanged.

What are the two additional conditions under which a school district would *not* be deemed to have knowledge that a student is a student with disabilities?

1) The parent has not allowed an evaluation of the child; and 2) the parent has refused special education and related services for their child.

The reauthorized Individuals with Disabilities Education Act (IDEA) became effective on July 1, 2005. This list of Frequently Asked Questions (FAQ) sheet is one of a series from the Montana Office of Public Instruction which highlight changes resulting from the reauthorization of the IDEA. Additional changes may result from the final regulations.

If you have further questions, please contact your local special education director or the Montana Office of Public Instruction. A complete listing of current OPI IDEA FAQs can be found at www.opi.mt.gov/speced/FAQs.



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